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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,335	09/02/2003	Masao Yamamoto	2523-081	1623

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EXAMINER
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ABDELWAHED, ALI F

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/652,335

Applicant(s)

YAMAMOTO ET AL.

Examiner

Ali Abdelwahed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 4, 6, and 9 are objected to because of the following informalities:

It is suggested that in:

Claim 4, line 5, before "...medicine..." delete "a" and insert --the--.

Claim 4, line 9, delete "parts" and insert --part--.

Claim 6, line 2, before "...respective..." insert --a--.

Claim 9, line 2, before "...administration..." delete "the" and insert --an--.

Claim 9, line 7, delete "parts" and insert --part--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations "the distributor", "the advertisement", and "the sponsor" in lines 2 and 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 2 recites the limitations "the part", "the day", and "the medicine" in lines 2 and 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 3 recites the limitations "the part" and "the day" in line 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 4 recites the limitations "the upper portion", "the intended one", "the portions", "the day", "the back side", and "the sheet" in lines 5, and 7-10. There is insufficient antecedent basis for these limitations in the claim.

Claim 5 recites the limitations "the breadth", "the diameter", "the engaging opening", "the lateral width", "the back side", and "the sheet" in lines 3-9. There is insufficient antecedent basis for these limitations in the claim.

Claim 6 recites the limitations "the part", "the day", "the medicine", "the portions", and "the parts" in lines 3, 4, 6, and 7. There is insufficient antecedent basis for these limitations in the claim.

Claim 7 recites the limitations "the part", "the day", "the timing", and "the medicine" in lines 3 and 4. There is insufficient antecedent basis for these limitations in the claim.

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Claim(s) 8 depends from rejected claim(s) 7 and includes all of the limitations of claim(s) 7 thereby rendering this dependent claim(s) indefinite.

Claim 9 recites the limitations "the intended one", "the portions", "the day", "the back side", and "the sheet" in lines 5-9. There is insufficient antecedent basis for these limitations in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0189141 A1 to Yamamoto et al.

Yamamoto et al. discloses a calendar (1) including a daily designation table (4); the designations on the part of the day such as "morning", "midday", and "evening" for which the medicine is to be taken are provided in each date section (3) of the daily designation table (see figs.1(a), 1(b), 6, 7), and laterally aligned engaging openings (4a-4c) are also provided on the portions corresponding to the parts of the day (see fig.1(b), 7), the engaging openings of each day are communicated with each other through a slit or communicating portion (5); a medicine pouch (2) is able to attach removably on one of the designations on the part of the day (see figs.1(a), 6) for indicating the timing for

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taking the medicine by a tag (6) including a head (7) and a body (8) connected by a neck (9) of reduced width (see fig. 3), wherein the tag is inserted through an opening (10) formed through the upper portion of the medicine pouch (see paragraph [0034]), and then the head of the tag is inserted with the pouch into the intended one of engaging openings provided through the portions corresponding respectively to each part of the day so as to engage the head with the back side of the sheet of the calendar (see paragraphs [0034], [0036]); the tag is made of a material of slight elasticity (see paragraph [0044]), and the breadth of the head is larger than the diameter of the engaging opening, so that the head is urged to be deformed to reduce the breadth thereof to the lateral width of the engaging opening upon inserted into the engaging opening and then recovered elastically to its original shape on the back side of the sheet and engaged with the back side (see paragraphs [0042], [0044]); and an administration instructing tag (12) is also able to attach removably by an adhesive mass (14) good at its releasability (see paragraph [0062]).

However, Yamamoto et al. fails to teach a space for designating the distributor of the calendar as well as a space for the advertisement of the sponsor. Nevertheless, the fact that there is no functional relationship of the printed material (i.e., the space for designating the distributor of the calendar as well as the space for the advertisement of the sponsor) to the calendar, and the only difference being in the content of the printed material suggests that there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter. See e.g., In re Gulack, 217 USPQ 401 (Fed. Cir. 1983).

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (703) 305-3311. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

AA

06/24/2004

A handwritten signature in black ink, appearing to read 'D. H. Banks', with a long horizontal line extending to the right.

DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700